GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Prisoners - Grant of special remission to the life convicted female prisoners on the occasion of Independence Day on 15-08-2020 - Guidelines - Issued.

HOME (PAROLES & HRC) DEPARTMENT

G.O.MS.No. 131 **Dated: 05-11-2020.**

Read the following:-

1. G.O.Ms.No.17, Home(Prisons.B2)Department,dated.17.01.2003.
2. Hon'ble Supreme Court of India Judgment dated 25-04-2014 in W.P. (Crl.) No.48/2014 filed by Union of India Vs V.Sriharan @ Murugan & Others.
3. Hon'ble Supreme Court of India Judgment dated 09-07-2014 in W.P. (Crl.)No.48/2014 filed by Union of India Vs V.Sriharan @ Murugan & Others.
4. Hon'ble Supreme Court of India Judgment dated 23-07-2015 in W.P.(Crl.) No.48/201 filed by Union of India Vs V.Sriharan @ Murugan & Others.
5. G.O.Ms.No.94, Home (Parole-HRC) Department, dated.27-08-2020.
6. From the Director General of Prisons & Correctional Services, A.P., Vijayawada, Lr.No.RC2/60/2020, Dated: 01.10.2020.

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ORDER:

The Government have received several representations from family members of life convicted female prisoners requesting for grant of premature release (special remission) to the life convicted female prisoners who have completed five (5) years of sentence.

2. The special problems that face the life-term female prisoners are not only affecting the prisoners as individuals but also the entire correctional system. International instruments and national policies suggest that deprivation of liberty may only be justified if accompanied by periodic review and assessment procedures that provides for options of release in due course of time with justifiable reasons. Absolute incarceration of individuals till the end of lives is no way acceptable for civilized communities. It is not only the humanitarian reasons that make pre-mature release of lifers inevitable, but also the cost-effectiveness of imprisonment. To incarcerate a person for life without the possibility of being released not only ignores two of the purposes of imprisonment, i.e., rehabilitation and reintegration into the society, but also places burdens on the State exchequer. Hence, it is imperative that inmates who are undergoing life imprisonment should be given a chance for 'life' outside, instead of a 'life' inside.

3. The Hon'ble Supreme Court of India in its Judgment dated 09-07-2014 in W.P.(Crl.) No.48/2014 filed by Union of India Vs V.Sriharan @ Murugan & Others restrained all the State Governments from exercising their powers of remission and commutation of sentence under sections 432 and 433 of the Code of Criminal Procedure, 1973 to life convicts.

4. Subsequently, the Hon'ble Supreme Court of India modified the orders dated:09-07-2014 in their Judgment dated 23-07-2015 in W.P.(Crl.) No.48/2014 filed by Union of India Vs V.Sriharan @ Murugan & Others and permitted premature release with certain restrictions.

5. In the said Supreme Court Judgment, it is also clarified that the President of India in exercise of his powers under Article 72 of the Constitution of India and the Governors of the States in exercise of their powers under Article 161 of the Constitution of India are not prevented from exercising their power(s) even in those cases, where the Supreme Court has placed restrictions for grant of special remission. However, the cases of prisoners who fall under the restrictions placed by the Supreme Court are not taken into consideration by the Government of Andhra Pradesh.

6. Now therefore, the Government have decided to review and recommend the cases of life convicted female prisoners who have been convicted for an offence or offences against laws relating to matters to which the executive power of the State extends with certain conditions for grant of Special Remission on the occasion of Independence Day on 15-08-2020, under article 161 of the Constitution of India, though they are covered by section 433-A of Code of Criminal Procedure, 1973.

7. Accordingly, relaxing the orders issued in the reference 1st read above, the Government hereby decided to issues the following guidelines giving one time exemption to consider special remission in the cases of following categories of life convicted female prisoners who have been convicted by Civil Courts of criminal jurisdiction. In suppression of G.O.Ms.No.94, Home (Parole-HRC) Department, Dated 27-08-2020, these guidelines will be applicable to the following convicted female prisoners undergoing life sentence, keeping in view of their good behaviour, subject to conditions as specified at para-8 below:-

a) Cases of convicted female prisoners sentenced to imprisonment for life, including those governed by section 433-A of the Code of Criminal Procedure, 1973 (Central Act No.2 of 1974) who have undergone a total sentence of five (5) years including remand period and remission as on 15-08-2020 shall be considered for release.

8. The remission of sentence in para (7) above, shall apply to prisoners, who have been convicted by Courts situated within the State of Andhra Pradesh and are undergoing sentence in Andhra Pradesh and in other States, but shall not apply to the following two categories of prisoners, namely:

CATEGORY I: Specified by Supreme Court order dated 23-07-2015 in W.P.(Crl.) No.48/2014.

(a) where life sentence has been awarded specifying that:-

(i) the convict shall undergo life sentence till the end of her life without remission or commutation;

(ii) the convict, shall not be released by granting remission or commutation till she completes a fixed term such as twenty (20) years or twenty five (25) years or like.

b) where no application for remission or commutation was preferred, or considered suo motu by the concerned State Governments/authorities.

c) where the investigation was conducted by Central Investigating Agency like the Central Bureau of Investigation.

d) where the life sentence is under any Central law or under section 376 of the Indian Penal Code, 1860 or any other similar offence.

CATEGORY II:

i) Female Life convicts convicted and sentenced by courts situated outside the State of Andhra Pradesh.
ii) Female Life convicts convicted of offences against laws relating to a matter to which the executive powers of the Union extends;
iii) Female Life convicts involved in and convicted for offences related to communal incidents;
iv) Female Life convicts who are punished for any prison offence during the last three (3) preceding years.
v) Female Life convicts who are punished for any serious prison offence like revolt / organising revolt against the prison administration anytime during their entire period of stay in the prison.
vi) Female Life convicts who are released on parole / furlough and who commit / attempt any of the offences punishable under any law for the time being in force.
vii) Female Life convicts who have escaped from custody during preceding three (3) years and have not surrendered voluntarily.
viii) Female Life convicts convicted under the Essential Commodities Act, 1955.
ix) Female Life convicts convicted under Narcotic Drugs and Psychotropic Substances Act, 1985, the Andhra Pradesh Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the Prevention of Terrorism Act, 2002 and the Special Acts enacted for Prevention of Terrorism and Mafia and other organized crimes who had been sentenced to imprisonment for life.
x) Female Life convicts who have committed offence / offences against girls up to eighteen (18) years of age and boys upto sixteen (16) years of age.
xi) Female Life convicts who are convicted for Kidnapping and related offences under sections 363-A, 364, 364-A, 366, 366-A, 366-B, 367, 368, 369, 372 and section 373 of the Indian Penal Code, 1860 (Act 45 of 1860).

xii) Female Life convicts convicted in crimes against women under section 376 of the Indian Penal Code, 1860 (Act No.45 of 1860).
xiii) Female Professional killers who have been guilty of murder by being hired.
xiv) Female Life convicts convicted under waging or attempting to wage war, or abetting the waging of war, against the Government of India.
xv) Female Life convicts convicted of murder of Public Servants while performing duty.
xvi) Female Life convicts sentenced to death sentence, which is later commuted to life sentence.
xvii) Female Life convicts who are at large on Parole/Furlough/Bail at the time of issuance of Government Orders.

9. The grant of this special remission by the Government of Andhra Pradesh will be subjected to the final orders that may be passed by the Hon'ble Supreme Court of India while answering the referral order in W.P.(Crl.) No.48/2014 filed by Union of India Vs V.Sriharan @ Murugan & Others.

10. The Director General of Prisons and Correctional Services, Andhra Pradesh, Vijayawada is requested to send the list of prison-wise eligible convicts as per the guidelines in the proforma annexed to this order in six(6) sets.

11. A Committee with the following members, under the Chairmanship of the Principal Secretary to Government, Home Department is hereby constituted, to review the lists and recommend to Government for consideration of special remission:-

1	Principal Secretary to Government, Home (Paroles & HRC) Department, Government of Andhra Pradesh, Velagapudi, Amaravati	Chairman
2	Secretary to Government, Legal and Legislative Affairs & Justice, Law Department, Government of Andhra Pradesh, Velagapudi, Amaravati.	Member
3	Director General of Police, Andhra Pradesh, Mangalagiri OR any other Officer nominated by him.	Member
4	Chief Legal Advisor, CID, Andhra Pradesh, a District Judge, Cadre Officer.	Member
5	Additional Director General of Police (Intelligence) O/o the Director General of Police, Andhra Pradesh, Mangalagiri.	Member
6	Director General of Prisons and Correctional Services, Andhra Pradesh, Vijayawada.	Member/ Convener

12. The G.O. is available on internet and can be accessed at the address http://www.aponline.gov.in.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KUMAR VISHWAJEET
PRINCIPAL SECRETARY TO GOVERNMENT

To.
The Director General of Prisons and Correctional Services, Andhra Pradesh, Vijayawada.
The Secretary to Government, Legal Affairs, Law Department, Andhra Pradesh, Velagapudi, Amaravati.
The Chief Legal Advisor, CID, Andhra Pradesh.
The Additional Director General of Police (Law & Order), O/o. The Director General and Inspector General of Police, Andhra Pradesh, Mangalagiri.
The Addl. Director General of Police, (Intelligence) O/o the Director General of Police, Andhra Pradesh, Mangalagiri.
Copy to:
The Director, Information & Public Relations, Andhra Pradesh, Vijayawada
PS to Principal Secretary to Governor
PS to Special Chief Secretary to Chief Minister
PS to Principal Secretary to Chief Secretary
PS to Principal Secretary to Home Department
Law (C) Department

//FORWARDED BY ORDER//

SECTION OFFICER

ANNEXURE

(Annexure to G.O.MS.No.131, Home (Paroles & HRC) Department, Dated 05/11/2020)

Sl.No.	Name, CT No. and age of the convict	Residential Address	Offence committed, Sentence, case No & date, Sentencing Court	Sentence served as on 15.08.2020	
				Actual Sentence	Total Sentence
				(YY) (MM) (DD)	(YY) (MM) (DD)

KUMAR VISHWAJEET
PRINCIPAL SECRETARY TO GOVERNMENT